
THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH

JAMES HAUSKNECHT,
Plaintiff,

v.

ROSIE RIVERA et al.,
Defendants.

**MEMORANDUM DECISION
& ORDER TO CURE
DEFICIENT COMPLAINT**

Case No. 2:21-CV-581-DBB

District Judge David Barlow

Plaintiff, former inmate James Hausknecht, brings this civil-rights action, *see* 42 U.S.C.S. § 1983 (2021). Having now screened the Complaint, (ECF No. 6), under its statutory review function, 28 U.S.C.S. § 1915A (2021), the Court orders Plaintiff to file an amended complaint to cure deficiencies before further pursuing claims.

COMPLAINT’S DEFICIENCIES

The Complaint:

(a) appears to inappropriately allege civil-rights violations on a respondeat-superior theory. *See Mitchell v. Maynard*, 80 F.2d 1433, 1441 (10th Cir. 1996) (stating supervisory status alone does not support § 1983 liability).

(b) does not adequately affirmatively link defendants to allegations of civil-rights violations. *Estate of Roemer v. Johnson*, 764 F. App’x 784, 790 n.5 (10th Cir. 2019) (“A plaintiff’s failure to satisfy this requirement [of pleading personal participation by each defendant] will trigger swift and certain dismissal.”).

(c) needs clarification on how to adequately state claim of inadequate medical treatment. *See Estelle v. Gamble*, 429 U.S. 97, 106 (1976) (holding “inadvertent failure to provide adequate medical care” or “medical malpractice does not become a constitutional violation merely because the victim is a prisoner,” but instead claim may be alleged properly only by alleging “acts or omissions sufficiently harmful to evidence deliberate indifference to serious medical needs”).

(d) seeks compensation from Salt Lake County Sheriff’s Office when a local sheriff’s office is not suable. *See Burnett v. Reno Cty. Comm’n*, No. 18-3160-SAC, 2019 U.S. Dist. LEXIS 32844, at *6 (D. Kan. Mar. 1, 2019) (“Police departments . . . are not suable entities under § 1983, because they lack legal identities apart from the municipality.”) (quotation marks and citations omitted).

(e) improperly names Salt Lake County Jail medical department as a § 1983 defendant, when it is not an independent legal entity that can sue or be sued. *See Smith v. Lawton Corr. Facility*, No. CIV-18-110-C, 2018 U.S. Dist. LEXIS 45488, at *5 (W.D. Okla. Mar. 7, 2018) (stating correctional facilities “not suable entities in a § 1983 action”).

(f) needs clarification regarding unnecessary-rigor cause of action under Utah Constitution. *See Asay v. Daggett County*, No. 2:18-CV-422, 2019 U.S. Dist. LEXIS 5794, at *19-20 (D. Utah Jan. 11, 2019) (stating “§ 1983 claims likely serve as existing remedies that redress plaintiff’s injuries[, mooted the need to also bring an unnecessary rigor claim]”).

(g) tries to state § 1983 claims against Salt Lake County in violation of municipal-liability doctrine. *See Jenkins v. Wood*, 81 F.3d 988, 993-94 (10th Cir. 1996) (stating, to establish liability of local-government entities under § 1983, “plaintiff must show (1) the existence of a

municipal custom or policy and (2) a direct causal link between the custom or policy and the violation alleged").

ORDER

IT IS HEREBY ORDERED that:


(1) Plaintiff must within thirty days cure the Complaint's deficiencies noted above by filing a document entitled, "Amended Complaint."

(2) If Plaintiff fails to timely cure the above deficiencies according to this Order's instructions, this action will be dismissed without further notice.

(3) Extensions of time are disfavored, though reasonable extensions may be granted. Any motion for time extension must be filed no later than **fourteen days** before the deadline to be extended.

DATED this 8th day of March, 2022.

BY THE COURT:



JUDGE DAVID BARLOW
United States District Court